

PATENT
10/015,382

C. REMARKS

Interview Summary

On November 28, 2005 at 1:30 PM EST, an interview was conducted via telephone between Amy Pattillo, Applicants' Representative, and Examiner Rasha Al Aubaidi. No exhibits were shown, nor demonstrations conducted.

First, Applicants' Representative noted that Brown (US Publication 2003/0103619), which is now cited by the Examiner with the Office Action dated September 8, 2005, was first cited by Applicants in an Information Disclosure Statement dated October 12, 2004 and initialed by the Examiner on January 19, 2005.

Second, Applicants' Representative noted that the Examiner stated in the Office Action dated September 8, 2005 that "Applicants is advised that double patenting rejections may become appropriate." [Office Action, p. 3] Applicants requested that the Examiner indicate the grounds of any double patenting rejections. The Examiner took a break from the telephone interview to evaluate the grounds of a double patenting rejection in view of Brown (US Patent 6,826,276) and Brown (US Publication 2003/0103619). The Examiner reinitiated the telephone interview and stated that the claims in the present application are different from the claims in Brown (US Patent 6,826,276) and Brown (US Publication 2003/0103619) and therefore no double patenting rejection would apply.

No agreement was reached with respect to the claims. Applicant is filing this response for further review by the Examiner.

35 USC § 102(e)

In the rejection of the claims under 35 USC 102(e), the Examiner states:

The applied reference has a common assignee with the instant application. Based on the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 than any invention disclosed

AUS920010827US1

11

PATENT
10/015,382

but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another" or by an appropriate showing under 37 CFR 1.131. [Office Action, pp. 2-3]

Applicants respectfully note that regardless of whether the applied references constitute prior art, for a claim to be rejected under 35 U.S.C. 102(e), ALL claimed features must be disclosed by the cited prior art. Applicants respectfully assert that neither of the applied references, Brown (US Patent 6,826,276) or Brown (US Publication 2003/0103619), disclose each and every element of claims 1-27 and 40-41 and therefore the rejection is respectfully traversed.

1. Alleged Anticipation - Claims 1-27 and 40-41 - Brown (US Patent 6,826,276)

Claims 1-27 and 40-41 stand rejected under 35 U.S.C. §102(e) as being anticipated by Brown (US Patent 6,826,276). [Office Action, p. 3] The rejection is respectfully traversed. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed Cir. 1987). Furthermore the reference must be an enabling disclosure of each and every element as set forth in the claim. *In re Hoecksmma*, 158 USPQ 596, 600 (CCPA 1968); *In re LeGrive*, 133 USPQ 365, 372 (CCPA 1962). Because Brown (US Patent 6,826,276), does not teach each and every element of claims 1-27 and 40-41 or enable each and every element of these claims, these claims are not anticipated, the rejection should be withdrawn, and the claims should be allowed.

In the rejection of claims 1-27 and 40-41 under Brown (US Patent 6,826,276), the Examiner states:

The disclosure is substantially the same as Brown reference (see Col. 5, lines 32-42). [Office Action, p. 3]

Applicants respectfully assert that Brown (US Patent 6,826,276) does not teach each and every element of claims 1-27 and 40-41 because Brown (US Patent 6,826,276) does not teach caller identity authentication. In addition, Applicants respectfully assert that while portions of the specification and figures of the present application may be similar to Brown (US Patent AUS920010827US1

PATENT
10/015,382

6,826,276), the specification and figures are not substantially the same as Brown (US Patent 6,826,276) and that regardless of whether there are similarities, Brown (US Patent 6,826,276) does not teach each and every element of claims 1-27 and 40-41.

Claims 1, 11, 21, 40, and 41

Independent claims 1, 11, 21, 40 and 41 all teach the element of an authenticated identifier for a caller or caller identity authentication as follows:

Claim 1: storing said advancement token for redemption in a future call by said caller according to an **authenticated identifier for said caller**, wherein future redemption of said advancement token will cause adjustment of a waiting position.

Claim 11: means for storing said advancement token for redemption in a future call by said caller according to an **authenticated identifier for said caller**, wherein future redemption of said advancement token will cause adjustment of a waiting position.

Claim 21: means, recorded on said recording medium, for storing said advancement token for redemption in a future call by said caller according to an **authenticated identifier for said caller**, wherein future redemption of said advancement token will cause adjustment of a waiting position.

Claim 40: receiving a call from a caller at a hold queue, wherein an **identity of said caller is authenticated;**

Claim 41: receiving a call from a caller at a hold queue, wherein an **identity of said caller is authenticated;**

The Examiner cites Brown (US Patent 6,826,276), col. 5, lines 32-42 as support for Brown teaching each and every element of claims 1, 11, 21, 40, and 41. Brown (US Patent 6,826,276), col. 5, lines 32-42 reads:

In addition, caller profile server 24 includes a caller profile database 27. Caller profile database 27 preferably includes multiple caller profiles stored according to caller ID. Caller profiles may include personal information, service preferences, product and service purchase records, previous hold activities, current wait history, and other information that is provided by a caller or monitored by a call center and transferred to a call profile server 24. In addition, a caller profile may include preferences for types of token advancement system and records of extra tokens earned by the caller for redemption in future calls...

AUS920010827US1

13

PATENT
10/015,382

Applicants respectfully assert that a caller profile database with multiple caller profiles stored according to caller ID does not describe caller authentication, and in particular does not disclose an authenticated identifier for a caller or authenticating an identity of a caller. Further, Applicants respectfully assert that a caller ID alone does not teach or enable an authenticated caller identifier. The Free On-Line Dictionary of Computing defines authentication as “the verification of the identity of a person or process.” In addition, the specification of the present application clearly provides support for a caller ID alone not teaching or enabling an authenticated caller identifier. In particular, paragraph 0064, lines 1-8 of the specification of the present invention describes:

According to an advantage of the present invention, the identity of a caller is authenticated according to voice authentication. Voice authentication is preferably performed by first identifying a subscriber by matching the name or other identifier spoken with a subscriber name or identifier. Next, voice authentication requires verifying that the voice audio signal matches that of the identified subscriber.

In addition, as to teaching the authenticated caller identifier, paragraph 0066 of the specification of the present invention reads:

Where IP 17 authenticates the identity of a caller (e.g. the subscriber placing a call), a voice identifier (VID) representing the authenticated caller identity is transferred as a signal for identifying the caller. In addition, where IP 17 authenticates the identity of a callee (e.g. the subscriber receiving a call), a reverse VID (RVID) including the callee identity is transferred as a signal for identifying the callee.

Therefore, in view of the dictionary definition and the specification of the present invention, it is clear that the teaching of an authenticated caller identifier or caller authentication in claims 1, 11, 21, 40 and 41 requires that the actual identity of the caller is verified. Because Brown (US Patent 6,826,276) does not teach an authenticated identity, Brown (US Patent 6,826,276) does not teach or enable at least one element of claims 1, 11, 21, 40 and 41 and therefore the claims should be allowed.

In addition, Applicants note that the Examiner’s ground for rejection of claims 1, 11, 21, 40, and 41 is that the “disclosure is substantially the same as [the] Brown reference.” Applicants
AUS920010827US1

PATENT
10/015,382

respectfully assert that the Examiner's assertion is incorrect because Brown (US Patent 6,826,276) does not include any disclosure of an authenticated caller identifier and in particular does not include any disclosure substantially the same as paragraphs 0064 and 0066 cited above. In addition, Brown (US Patent 6,826,276) does not teach or reference a VID representing an authenticated caller identity and in particular does not teach paragraphs 0041-0081 and 0125-0131 and Figures 1, 5, and 7. Further, even if portions of the present application are substantially the same as Brown (US Patent 6,826,276), for a claim to be rejected under 35 USC 102(b), ALL the claimed features must be disclosed by the prior art; clearly Brown (US Patent 6,826,276) does not disclose an authenticated caller identifier or caller authentication. Therefore, in view of the foregoing, Applicants respectfully request withdrawal of the rejection under Brown (US Patent 6,826,276) and allowance of the claims.

Claims 2-10, 12-20, and 22-27

Regarding claims 2-10, 12-20, and 22-27, Applicants respectfully propose that because Brown (US Patent 6,826,276) does not anticipate independent claims 1, 11, and 21 upon which these dependent claims rely, Brown (US Patent 6,826,276) also does not anticipate dependent claims 2-10, 12-20, and 22-27 and the dependent claims should be allowed.

In particular, Applicants assert, with regard to claims 7, 17, and 26 that not only does Brown (US Patent 6,826,276) not teach or enable an authenticated caller identifier, but Brown (US Patent 6,826,276) does not teach or enable the authenticated identifier for the caller "authenticated according to a voice identity of said caller" as taught by claims 7, 17, and 26. Because Brown (US Patent 6,826,276) does not teach or enable voice identity based caller authentication, Brown does not teach or enable claims 7, 17, and 26 and the claims should be allowed.

AUS920010827US1

15

PATENT
10/015,382

2. Alleged Anticipation - Claims 1-27 and 40-41 - Brown (US Publication 2003/0103619)

Claims 1-27 and 40-41 stand rejected under 35 U.S.C. §102(e) as being anticipated by Brown (US Publication 2003/0103619). [Office Action, p. 3] The rejection is respectfully traversed. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed Cir. 1987). Furthermore the reference must be an enabling disclosure of each and every element as set forth in the claim. *In re Hoecksmas*, 158 USPQ 596, 600 (CCPA 1968); *In re LeGrive*, 133 USPQ 365, 372 (CCPA 1962). Because Brown (US Publication 2003/0103619) does not teach each and every element of claims 1-27 and 40-41 or enable each and every element of these claims, these claims are not anticipated, the rejection should be withdrawn, and the claims should be allowed.

In the rejection of claims 1-27 and 40-41 under Brown (US Publication 2003/0103619), the Examiner states:

The disclosure is substantially the same as Brown et al, reference (see abstract of the invention and P. 1). [Office Action, p. 3]

Applicants respectfully assert that Brown (US Publication 2003/0103619) does not teach each and every element of claims 1-27 and 40-41 because Brown (US Publication 2003/0103619) does not teach caller identity authentication. In addition, Applicants respectfully assert that while portions of the specification and figures of the present application may be similar to Brown (US Publication 2003/0103619), the specification and figures are not substantially the same as Brown (US Publication 2003/0103619) and that regardless of whether there are similarities, Brown (US Publication 2003/0103619) does not teach each and every element of claims 1-27 and 40-41.

Claims 1, 11, 21, 40, and 41

As previously asserted, independent claims 1, 11, 21, 40 and 41 all teach the element of an authenticated identifier for a caller or caller identity authentication as follows:

AUS920010827US1

16

PATENT
10/015,382

Claim 1: storing said advancement token for redemption in a future call by said caller according to an **authenticated identifier for said caller**, wherein future redemption of said advancement token will cause adjustment of a waiting position.

Claim 11: means for storing said advancement token for redemption in a future call by said caller according to an **authenticated identifier for said caller**, wherein future redemption of said advancement token will cause adjustment of a waiting position.

Claim 21: means, recorded on said recording medium, for storing said advancement token for redemption in a future call by said caller according to an **authenticated identifier for said caller**, wherein future redemption of said advancement token will cause adjustment of a waiting position.

Claim 40: receiving a call from a caller at a hold queue, wherein an **identity of said caller is authenticated**;

Claim 41: receiving a call from a caller at a hold queue, wherein an **identity of said caller is authenticated**;

The Examiner cites Brown (US Publication 2003/0103619), abstract as support for Brown teaching each and every element of claims 1, 11, 21, 40, and 41. Brown (US Publication 2003/0103619), abstract reads:

A method, system, and program for allowing callers to adjust in position within a call hold queue are provided. An advancement token earned by a caller is detected at a calling queue. The position of the caller within the calling queue is adjusted, in response to redemption of the advancement token, such that the caller is allowed control over the position within the calling queue by earning advancement tokens. In particular, a caller may earn advancement tokens by participation in competitions or surveys or by redemption of membership points.

It is clear that the abstract of Brown (US Publication 2003/0103619) does not disclose caller authentication.

In addition, the Examiner cites Brown (US Publication 2003/0103619), abstract as support for Brown teaching each and every element of claims 1, 11, 21, 40, and 41. Without reciting herein the entirety of page 1 of Brown (US Publication 2003/0103619), Applicants respectfully assert that neither page 1 nor any other pages of Brown (US Publication 2003/0103619) disclose caller authentication.

In contrast, as previously asserted with regard to the rejection under Brown (US Patent 6,826,276), Applicants respectfully assert that not only does the specification describe and
AUS920010827US1

PATENT
10/015,382

enable authenticating a caller identity and storing an advancement token according to an authenticated identifier for a caller, but caller authentication provides for verifying the actual identity of the caller. Brown (US Publication 2003/0103619) does not disclose verifying the actual identity of the caller and therefore Brown (US Publication 2003/0103619) does not teach or enable an authenticated identifier for the caller of claims 1, 11, and 21 or receiving a call from a caller at a hold queue, wherein the identity of the caller is authenticated of claims 40 and 41. Because Brown (US Publication 2003/0103619) does not teach or enable at least one element of claims 1, 11, 21, 40 and 41 the rejection should be withdrawn and the claims allowed.

In addition, Applicants note that the Examiner's ground for rejection of claims 1, 11, 21, 40, and 41 is that the "disclosure is substantially the same as [the] Brown reference." Applicants respectfully assert that the Examiner's assertion is incorrect because Brown (US Publication 2003/0103619) does not include any disclosure of an authenticated caller identifier and in particular does not include any disclosure substantially the same as paragraphs 0064 and 0066 of the present application, as cited above. In addition, Brown (US Publication 2003/0103619) does not teach or reference a VID representing an authenticated caller identity and in particular does not teach paragraphs 0041-0081 and 0125-0131 and Figures 1, 5, and 7. Further, even if portions of the present application are substantially the same as Brown (US Publication 2003/0103619), for a claim to be rejected under 35 USC 102(b), ALL the claimed features must be disclosed by the prior art; clearly Brown (US Publication 2003/0103619) does not disclose an authenticated caller identifier or caller authentication. Therefore, in view of the foregoing, Applicants respectfully request withdrawal of the rejection under Brown (US Publication 2003/0103619) and allowance of the claims.

Claims 2-10, 12-20, and 22-27

Regarding claims 2-10, 12-20, and 22-27, Applicants respectfully propose that because Brown (US Publication 2003/0103619) does not anticipate independent claims 1, 11, and 21 upon which these dependent claims rely, Brown (US Publication 2003/0103619) also does not anticipate dependent claims 2-10, 12-20, and 22-27 and the dependent claims should be allowed.

AUS920010827US1

18

PATENT
10/015,382

In particular, Applicants assert, with regard to claims 7, 17, and 26 that not only does Brown (US Publication 2003/0103619) not teach or enable an caller authentication, but Brown (US Publication 2003/0103619) does not teach or enable the authenticated identifier for the caller "authenticated according to a voice identity of said caller" as taught by claims 7, 17, and 26. Because Brown (US Publication 2003/0103619) does not teach or enable voice identity based caller authentication, Brown does not teach or enable claims 7, 17, and 26 and the claims should be allowed.

AUS920010827US1

19


PATENT
10/015,382

Conclusion

Applicants note the citation of pertinent prior art cited by the Examiner.

In view of the foregoing, withdrawal of the rejections and the allowance of the current pending claims is respectfully requested. If the Examiner feels that the pending claims could be allowed with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment. Further, Applicants reiterate the request for a telephone conference with the Examiner at the Examiner's earliest convenience.

Respectfully submitted,

 on 12/2/05

Amy J. Pattillo
Attorney for Applicants
Reg. No 46,983
P.O. Box 161327
Austin, Tx 78716
512.402.9820 *vox*
512.306.0417 *fax*

AUS920010827US1

20